

**Andover Conservation Commission Meeting Minutes
September 07, 2010**

Town of Andover
36 Bartlett Street
3rd Floor Conference Room
7:45pm

Conservation Commission Members in Attendance:

Chairman Donald Cooper, Commissioner Alix Driscoll, Commissioner Gail Ralston, Commissioner Jon Honea and Commissioner Floyd Greenwood. Staff members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

4 Larchmont Circle

Staff Recommendation: Approve as Neg.5.

This is a Public Meeting on the Request for Determination of Applicability filed to determine if the construction of a deck is subject to the Massachusetts Wetlands Protection Act.

Agent Cleary presented this to the Commission. The filing is under the WPA only and is complete and ready for a decision. No waivers are necessary. The deck will be 70-80 feet from the wetland on existing grass, the town wetland map is incorrect. There is significantly less wetland on site. Chairman Cooper requested that the plan be verifiable on the plan. The deck is within the existing line of the house, will be 10 x 20 feet built on sona tubes. The distance from the BVW should be on the plan.

Chairman Cooper asked for a Motion. Commissioner Ralston made a Motion to Approve as Neg.5, approval for work as indicated within the existing line of the house, including the stairs and distance to the wetlands to be indicated on the plan. The motion was seconded by Commissioner Driscoll and unanimously approved.

16 Karlton Circle

Present in Interest: Stephen Andrews.

Staff Recommendation: Approve as Pos.2b and Neg.3

This is a Public Meeting on the Request for Determination of Applicability filed for the repair of a Tennis Court is subject to the Massachusetts Wetlands Protection Act.

Commissioner Driscoll recused herself.

Mr. Douglas presented this to the Commission. The Applicant is seeking to repair the foundation and tennis court which is already within the 25 foot non-disturb. There will be no change to the footprint of the court. Waivers are being requested to allow NOT to place 25 foot permanent no disturb markings; submittal of engineered plans including contour lines, surveyed wetland line and tree locations. There is an existing drainage ditch that passes under the structure and needs to be repaired or replaced. The work will be done from the Court without entering the wetlands. By allowing this project, the drainage ditch will be repaired as part of the project and in turn it will protect the wetland from part of the tennis court crumbling into it. Sedimentation control is required and an inspection will be done by staff to determine the limit of construction.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to grant the waivers as requested and Approve as Pos.2b and Neg.3 with no machinery entering the wetland and sedimentation control. The Motion was seconded by Commissioner Ralston and unanimously approved.

16 Bridal Path Road

Present in Interest: Bill MacLeod and Jane Michel

Staff Recommendation: Approve as Pos.2a and Neg.3.

Public Meeting on the Request for Determination of Applicability filed to determine if the construction of an addition and a patio is subject to the Massachusetts Wetlands Protection Act.

Mr. Douglas presented this to the Commission. The filing is under the WPA only and no waivers are requested. This is a “Backyard Project”. The “raised patio” elevation will be 24 inches or less on existing yard area. The existing fence will be used as support for the haybales.

Chairman Cooper asked for a Motion. Commissioner Ralston made a Motion to Approve as Pos.2a and Neg.3, it was seconded by Commissioner Driscoll and unanimously approved.

148 Shawsheen Road

Present in Interest: Robert and Carol Weldin

Staff Recommendation: Approve as Pos.2a, confirming boundary of resource areas as depicted by Flags 1A through 16A inclusive, and Neg.3 with conditions and Neg.6.

Public Meeting on the Request for Determination of Applicability filed to determine of the re-construction of a damaged house, tie into town sewer and expansion of deck is subject to the Massachusetts Wetlands Protection Act.

Agent Cleary presented this to the Commission. The filing is complete and waivers are requested. The home collapsed during the microburst in June.

1. The home is being constructed on existing foundation with no change to size of foundation and/or dwelling. Finding should be made if the application is subject to the By-Law for new construction.
2. Waiver from requiring the type, location and size of significant existing, natural and proposed land features. There is no change in existing conditions with this reconstruction project which was caused by nature.
2. Waiver from the 30 foot setback for the proposed reconstruction of the deck which did not meet the setback when it was built in the 1960s. The existing concrete pad beneath the deck will be demolished and is closer to the BVW than the proposed deck.

Sedimentation control in the form of haybales will be necessary and reconstruction is not to exceed the footprint.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to Approve the Waivers and find the project a reconstruction relative to the By-Law (not to exceed existing footprint of house), it was seconded by Commissioner Driscoll and unanimously approved. Commissioner Ralston made a Motion to Approve as Pos.2a, Neg.3 and Neg.6, it was seconded by Commissioner Driscoll and unanimously approved.

9 Devonshire Place

Present in Interest: Julie Duggan and Robert Webber.

Staff Recommendation: Approve as Neg.2a and Pos.3.

Public Meeting on the Request for Determination of Applicability filed to determine if the construction of an in-ground pool is subject to the Massachusetts Wetlands Protection Act.

Mr. Douglas presented this to the Commission. The pool project is 85 feet from the BVW on a flat area. This is a "Backyard Project". The Applicant is seeking waivers for engineered plans; contours and tree line. The Applicant has submitted a Plan showing the distances between the pool, house, property boundaries and wetlands. As mitigation the Applicant will place 4 No Disturb Markers 35 feet from the property line at the existing woods. The conditions will include "limit of work to be set on-site by agent". Due to distance to wetland, staff recommends bales. This is a salt water pool using very little chlorine and a cartridge filtration system. During the winter, when water will be taken down for the winter, it will be drained over a grassy area.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to grant the waivers and approve as Neg.2a and Pos.3, it was seconded by Commissioner Ralston and unanimously approved.

2 Wild Rose Drive

Present in Interest: Doug Ahern

Staff Recommendation: Approve as Pos.2a, confirming Flags 1A through 3A inclusive and 1B through 6B inclusive and Pos.2b.

Continued Public Meeting on the Request for Determination of Applicability filed to determine if there are any resource areas within the 100 feet of the property with the exception of the north side of Lowell Street is subject to the Massachusetts Wetlands Protection Act.

Agent Cleary presented this to the Commission. This was continued from August 3, 2010 to allow staff to check with the Town Engineer regarding the status of the drainage pipe off-site to the rear of the property. Continued from August 17, 2010 for purposes of a peer reviewer to review BVW off-site to the rear of the lot.

Meeting was continued at the request of the Applicant to have Jeff Bridge review the wetland to the rear of the lot. The Applicant then changed their mind and opted not to go with a peer review. Staff met with the Town Engineer on site who confirmed that there is a hydrological connection between the wetland to the rear of the lot and the wetland across the street from the lot. This is considered an intermittent stream and the Town Engineer determined the inlet and outlet. The lot is located in the Fish Brook Watershed. According to the submitted plan, the existing dwelling will be demolished. Once the dwelling is demolished, all reviews will be subject to the By-Law.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to Approve as Pos.2a and Pos.2b with location of culverted stream not determined, it was seconded by Commissioner Ralston and unanimously approved.

Harold Parker State Forest 133 Jenkins Road

Staff Recommendation: Close Public Hearing and Issue Order of Conditions.

Chairman Cooper recused himself.

Continued Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed installation of new water mains, replacement of existing water mains, installation of new hose bibs at each campsite and the relocation of overhead electric lines to subsurface conduits with the Lorraine Park Campground.

Agent Cleary presented this to the Commission. This was continued from August 17, 2010 for review of the wetland line. The Applicant is requesting waivers as stated in a letter at the August 17th meeting. The sense of the Commission was to grant the waivers but due to a lack of quorum, no vote was taken. The reasons for granting the waivers are that this is a large linear project with all work occurring within an existing roadway. The Applicant is also DCR. All of the work will be within the existing roadway. Staff concentrated on areas closest to the proposed work. Three wetland flags were changed in the B series creating more wetland depicted on the revised plans. The Applicant has agreed to loam and seed the bare ground as mitigation.

Chairman Cooper asked for a Motion. Commissioner Honea made a Motion to grant the waivers as requested, it was seconded by Commissioner Ralston and unanimously approved. Commissioner Ralston made a Motion to Approve flagging, close the public hearing and issue the Order of Conditions on September 21, 2010 with findings of Limited Project Status (310 CMR 10.53(3)(d)-installation and construction of public utilities); Riverfront Area-Skug River & Frye Brook (qualifies as redevelopment under 310 CMR 1-.58(5)-improvement of existing conditions); and no net loss of Bordering Land Subject to Flooding. The Motion was seconded by Commissioner Honea and unanimously approved.

81 Jenkins Road

Staff Recommendation: Close Public Hearing and Issue Order of Conditions.

Continued Public Meeting on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law, for the proposed construction of a sunroom and a deck.

Mr. Douglas presented this to the Commission. This was continued from August 17, 2010 for purposes of receiving a DEP File Number. DEP has no comments. The revised plan shows contours and no work beyond the existing fence.

Chairman Cooper asked for a Motion. Commissioner Ralston made a Motion to close the public hearing and issue the Order of Conditions, it was seconded by Commissioner Driscoll and unanimously approved.

Taylor Cove

93-97 River Street

Present in Interest: Bill MacLeod, Don Borenstein and Todd Wacome

Staff Recommendation: Recommend a resource peer review.

Continued Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act for the proposed construction of a portion of a roadway, infiltration basin and three buildings with associated grading.

Agent Cleary presented this to the Commission. This was continued from July 20, 2010 for purposes of forming a subcommittee to work with the Applicant on plan submitted and peer review issues. The subcommittee met August 10, 2010. The Applicant agreed to submit supplemental information at this meeting, including a full size plan depicting edges of “non-cleared areas”; Habitat Map, Flood Map, Soils Map, Replication Plan with plants and sequencing; 25 ft., 50 ft., and 100 ft offsets from wetland boundary be shown; depiction of “flow arrow” in Riverfront Area; reference be made to 310CMR to elaborate on economically equivalent alternatives and significant impact; areas or previously “degraded Riverfront Area” would be noted on Plan; sense was that Riverfront Area should be extended; Dan MacRitchie, P.E., was selected as the engineering peer reviewer; and Don Cooper told the Applicant the sense of the Commission would be to require an environmental peer review. None of the agreed to supplemental information was submitted to staff or the engineering peer reviewer. No funds have been received to commence the review. The question before the Commission is if the Applicant is covered under the “Permit Extension Act”.

Attorney Borenstein believes the application falls under the “Permit Extension Act”, thus allowing 2 more years under this Act. Commissioner Driscoll would like the Commission to reflag and peer review the wetland line because so much time has passed and there could have been changes in the wetlands.

It was agreed that \$5,000 will be deposited for the peer review and the ZBA will use the same consultant. Attorney Borenstein would like to add an “up to amount” and not proceed with items 5 and 6. Commissioner Ralston requested items 5 and 6 remain in the letter, but no work done on items 5 and 6.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to amend the peer review letter to reflect Phase 1 and 2 , Phase one to be done immediately and Phase 2 upon our notice and to add “not to exceed” amount of \$4,990.00, it was seconded by Commissioner Ralston and unanimously approved.

The Commission will get an environmental peer review proposal.

Commissioner Driscoll made a Motion to continue to November 16, 2010, it was seconded by Commissioner Honea and approved with Commissioner Ralston opposed.

ACTION ITEMS:

172 Holt Road

Staff Recommendation: Approve.

Issuance of an Order of Conditions.

Commissioner Ralston made a Motion to Approve, it was seconded by Commissioner Driscoll and unanimously approved.

52 Williams Street

Staff Recommendation: Issue Enforcement Order without fines.

Issuance of an Enforcement Order with fines.

Commissioner Ralston made a Motion to issue the Enforcement Order without fines due to the quick response and mitigation beyond what was asked, it was seconded by Commissioner Driscoll and unanimously approved.

CONSENT AGENDA:

6 Sawyers Lane

Issuance of a Certificate of Compliance.

407 South Main Street

Issuance of a Certificate of Compliance

36 Oriole Drive

Issuance of a Certificate of Compliance.

487 Lowell Street

Issuance of a Certificate of Compliance.

10R Shandel Circle

Issuance of a Certificate of Compliance.

58 Prospect Street

Issuance of a Notification Satisfactory Completion of Work Certificate.

5 Iron Gate Drive

Issuance of a Notification of Satisfactory Completion of Work Certificate.

8 Island Way

Issuance of a Notification of Satisfactory Completion of Work Certificate.

Commissioner Ralston made a Motion to Approve the Consent Agenda with the exception of 487 Lowell Street and 10R Shandel Circle, it was seconded by Commissioner Driscoll and unanimously approved.

DISCUSSION ITEMS:

Bow Hunting

At the next meeting we will discuss Bow Hunting. Still waiting for the opinion of the Selectmen and we need approval of both the Selectmen and Conservation Commission to hunt on Conservation Land. We are looking to hunt at Bald Hill Wood Hill and North of Rafton if approved by AVIS.

Invasives

Meeting September 20, 2010 at 7:00pm.

The next meeting will be held at 7:45pm on September 21, 2010.

The meeting was adjourned at 10:32pm by Motion of Commissioner Driscoll, seconded by Commissioner Honea and unanimously approved.

Respectfully submitted by:

**Lynn Viselli,
Recording Secretary**